

IN RE: PETITION FOR VARIANCE

SE/Corner Joppa Road and Pershing Avenue
(1917 East Joppa Road
9th Election District
6th Election District

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Joppa Perring Limited Partnership,
c/o GFS Realty, Owners; Joppa Drive-Thru, Inc.
Contract Lessee - Petitioners

* Case No. 99-111-A

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the Owners of the subject property, Joppa Perring Limited Partnership c/o GFS Realty, by Peter Melmed, Vice President, and the Contract Lessee, Joppa Drive-Thru, Inc., by Walter B. Dorsey, President, through their attorney, Robert A. Hoffman, Esquire. The Petitioners seek relief from Section 303.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 40 feet in lieu of the required 70 feet, and from Section 450.4.5(d) of the B.C.Z.R. to permit three (3) wall-mounted enterprise signs on walls where there are no exterior customer entrances. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Barry Loescher, a representative of Checkers Restaurant, the proposed proprietor of the subject property, Fred Thompson, Nancy Catron-Hrunenei, and Robert A. Hoffman, Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were several representatives of the Joppa Gospel Tabernacle Church, which is located on the adjacent property, all of whom signed the Protestants' Sign-In Sheet. The Protestants were represented by David F. Mister, Esquire.

UNDER RECEIVED FOR FILING

Date

By

Appearing as an interested party was Ms. Donna Spicer, a representative of the Loch Raven Business Association.

Testimony and evidence offered revealed that the subject property is located on the southwest corner of Joppa Road and Pershing Avenue not far from the intersection of Joppa Road and Perring Parkway in Parkville. The property consists of a gross area of 4.47 acres, more or less, split zoned B.L. and B.L.-A.S. and is improved with a Giant Supermarket and Bill's Carpet Barn, which have existed on the property for many years. The remainder of the site is a parking lot. The Petitioners have contracted to lease a portion of the property to Joppa Drive-Thru, Inc., who propose to develop the northwest corner of the site with a Checker's Restaurant. The proposed restaurant will be a fast-food, carry-out only, drive-thru facility, consisting of a one-story building containing the cooking facilities and two drive-thru aisles. The drive-thru lanes will be located on either side of the proposed building with access from both Pershing Avenue and Joppa Road. There will be a walk-up window where pedestrians can order food and an outdoor seating area for patrons. There will be no indoor seating.

On behalf of the Petitioners, Mr. Hoffman testified that they have been negotiating with the Joppa Gospel Tabernacle Church and its attorney, Mr. Mister, as to certain terms and conditions which shall be imposed upon Checkers in the operation of their carry-out restaurant. Those conditions shall be incorporated as restrictions at the end of this Order.

In addition, Ms. Donna Spicer, who appeared on behalf of the Loch Raven Business Association, raised a concern which shall be addressed by way of a restriction incorporated at the end of this Order. As to the restaurant use, testimony revealed that Checkers is a fast-food carry-out restaurant, which has opened locations throughout Baltimore County as well as other areas in

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By [Signature]

the State of Maryland. While their menu offers a variety of lunch and dinner options, breakfast is not served. Therefore, the restaurant does not open until 10:00 AM and closes at approximately 11:00 PM. These hours are fairly consistent for Sunday to Thursday operations; however, on Fridays and Saturdays, the restaurant usually stays open later, given the fact that the weekend crowd tends to patronize these fast food restaurants until the early hours of the morning. In its negotiations with the adjacent property owner, the Petitioners agreed to certain business hours so that the operation of the subject restaurant does not interfere with Sunday worship services at the Joppa Gospel Tabernacle Church. As to the variance relief sought, testimony indicated that the relief requested is necessary in order to develop the property as proposed and provide the necessary reader boards for ordering purposes.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property

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Date 12/2/98
By [Signature]

and that strict compliance with the zoning regulations would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R. However, certain terms and restrictions shall be imposed at the end of this Order to incorporate the agreements reached between the Petitioners and adjacent property owners.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy zoning Commissioner for Baltimore County this 2nd day of December, 1998 that the Petition for Variance seeking relief from Section 303.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 40 feet in lieu of the required 70 feet, and from Section 450.4.5(d) of the B.C.Z.R. to permit three (3) wall-mounted enterprise signs on walls where there are no exterior customer entrances, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

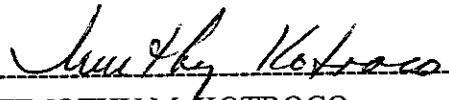
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The hours of operation shall be from 10:00 AM to the closing time deemed appropriate by the operator of this restaurant. However, on Sundays, the restaurant shall not open before 12:00 PM. Employees may be permitted to access the building for purposes of preparing the restaurant for opening at 12:00 PM; however, there shall be no customer service prior to 12:00 PM on any given Sunday.
- 3) All deliveries to Checkers shall be made between the hours of 12:00 AM and 7:00 AM. In addition, all trash and debris removal shall be accomplished during those hours. Mr. Loescher indicated that these are standard hours for deliveries and trash removal for Checkers.
- 4) Prior to the issuance of any building permits, the Petitioners shall submit a

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12/2/98
[Signature]

landscape plan to the Office of Planning and Mr. Avery Harden, Landscape Architect for Baltimore County. Said plan shall provide for landscaping along the entire frontage of Joppa Road, not only along that area to be leased by Checkers, but the entire frontage of the property owned by Joppa Perring Limited Partnership, c/o GFS Realty. This area of Joppa Road is in desperate need of landscaping, thus, the entire length of the Petitioner's property along Joppa Road shall be landscaped. In addition, the Petitioner shall provide landscaping as deemed appropriate by the Office of Planning and Mr. Harden on and around the entire area to be leased by Checkers. All landscaping shall be installed as soon as weather permits.

- 5) The Petitioner shall submit to the Office of Planning for review and approval a lighting and sign package for the subject site. As agreed to at the hearing, the sign package shall provide for two (2) 30 sq.ft. signs for Checkers, wall-mounted on the subject building, and one (1) 20 sq.ft. Checkers wall-mounted sign facing the Joppa Gospel Tabernacle Church.
- 6) Both the Owners of the subject property and the Contract Lessee shall be required to make all necessary improvements to Pershing Avenue as is necessary to improve the site, both along that portion of their property which fronts on Pershing Avenue and the one-half of the road bed actually owned by the Joppa Gospel Tabernacle Church. In addition, both the Owner and the Contract Lessee shall be required to maintain Pershing Avenue in the future, from the intersection of Joppa Road and Pershing Avenue back to the property line shown on the site plan as being owned by Robert G. Davidson, Jr. The Joppa Gospel Tabernacle Church shall not be required to expend any of their own funds for the purpose of repairing or maintaining the roadbed of Pershing Avenue, or any of the curb and gutter located on their side of Pershing Avenue. The damage caused to Pershing Avenue and its curb and gutters are as a result of the many 18-wheel tractor trailer delivery trucks that come into this site to service Bill's Carpet Barn and the Giant Food Store, and now, the Checkers' restaurant. The surface of Pershing Avenue and the curbs and gutters shall be repaired and maintained by those parties responsible for this damage, i.e., the Joppa Perring Limited Partnership, the landlord of the site, and the various users of the subject property, and not the Joppa Gospel Tabernacle Church.
- 7) In the event that Checkers ceases to operate at this location and a new business is not able to utilize the same building footprint for a new use on the property, then after the expiration of one year following the abandonment of the restaurant building, the property owners, Joppa Perring Limited Partnership c/o GFS Realty, shall be required to raze the obsolete building, remove all parking islands and curb and gutter installed for this use, and restore this corner of their property to its original condition. This will prevent an abandoned building from being left to deteriorate on the subject property in the event a new user cannot be found.

- 8) In the event that a problem arises with the loitering of individuals on the subject property, then the Petitioners shall be required to hire private security guards to maintain the area.
- 9) The Owners of the subject property and Checkers shall be required to maintain the entire property free and clear of all trash and debris, even if said trash and debris are from an adjacent site.
- 10) There shall be no outside speakers other than those necessary to operate the drive-thru service windows, and no outdoor music played on the subject property.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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12/2/98
1316
1316



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

November 30, 1998

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
SE/Corner Joppa Road and Pershing Avenue (1917 East Joppa Road)
9th Election District – 6th Councilmanic District
Joppa Perring L.P. c/o GFS Realty, Owners; Joppa Drive-Thru, Inc. - Petitioners
Case No. 99-111-A

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy M. Kotroco", is written over a horizontal line.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Peter Melmed, V.P., Joppa Perring L.P., P.O. Box 1804, Washington, D.C. 20013-1804
Mr. Walter B. Dorsey, President, Joppa Drive-Thru, Inc.
P.O. Box 1809, California, Md. 20619-1809
David F. Mister, Esquire, 30 E. Padonia Road, Suite 404, Timonium, Md. 21093
Ms. Donna Spicer, 8719 Eddington Road, Baltimore, Md. 21234

People's Counsel; Case File





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1917 East Joppa Road

which is presently zoned BL & BL-AS

This Petition shall be filed with the Department of Permits & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made part of hereof, hereby petition for a Variance from Section(s)

Section 303.2 of the Baltimore County Zoning Regulations to permit a front yard setback of 40 feet in lieu of the required 70 feet and see attached sheet for additional variance language.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardships or practical difficulty)

To be determined at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Joppa Drive-Thru, Inc.

(Type or Print Name)

Signature: Walter B. Dorsey, President

P.O. Box 1809

Address

California MD 20619-1809
City State Zipcode

Attorney for Petitioner:

Robert A. Hoffman

Venable, Baetjer and Howard, LLP

(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-6200
Address Phone No

Towson MD 21204
City State Zipcode

Legal Owner(s):

Joppa Perring Limited Partnership c/o GFS Realty

(Type or Print Name)

Signature: Peter Melmed, Vice President

Peter Melmed, Vice President
(Type or Print Name)

Signature

P.O. Box 1804 (301) 341-8424
Address Phone No.

Washington DC 20013-1804
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Name

210 Allegheny Ave, Towson, MD 21204 (410) 494-6200
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

ORDER RECEIVED BY MAIL

Date

By

DROP OFF
NO REVIEW

9/14/78 409

99-111-A

Petition for Variance: 1917 East Joppa Road
Petitioner: Joppa Perring Limited Partnership c/o GFS Realty

and a variance from Section 450.4.5(d) of the Baltimore County Zoning Regulations to permit three wall-mounted enterprise signs on walls where there are no exterior customer entrances.

ORIGINAL FILED
DATE 12/2/98
BY [signature]

ZONING DESCRIPTION
1917 E. JOPPA ROAD

BEGINNING AT A POINT ON THE SOUTH SIDE OF JOPPA ROAD AT THE INTERSECTION OF THE CENTERLINE OF PERSHING AVENUE. THENCE EXTENDING THE FOLLOWING COURSES AND DISTANCES:

1. ALONG JOPPA ROAD SOUTH 68 DEGREES 39 MINUTES EAST, 115.30 FEET;
2. SOUTH 70 DEGREES 54 MINUTES, 235.00 FEET;
3. SOUTH 69 DEGREES 20 MINUTES, 54.11 FEET;
4. LEAVING JOPPA ROAD SOUTH 10 DEGREES 45 MINUTES EAST, 422.88 FEET TO THE RIGHT OF WAY LINE OF I-695;
5. ALONG THE I-695 RIGHT OF WAY LINE CURVING TO THE RIGHT WITH A RADIUS OF 330.00 FEET THE ARC DISTANCE OF 93.88 FEET;
6. ON A ARC CURVING TO THE RIGHT WITH A RADIUS OF 4430 FEET THE ARC DISTANCE OF 157.81 FEET;
7. SOUTH 87 DEGREES 28 MINUTES 13 SECONDS WEST 70.95 FEET;
8. NORTH 87 DEGREES 30 MINUTES WEST 30.00 FEET;
9. LEAVING THE RIGHT OF WAY LINE OF I-695 NORTH 08 DEGREES 30 MINUTES WEST 629.81 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 4.09 ACRES AND RECORDED IN DEED LIBER 6745 FOLIO 36 AND
LIBER 4689 FOLIO 15.

ALSO KNOWN AS 1917 EAST JOPPA ROAD IN THE 9TH ELECTION DISTRICT.



99-111-A

BALTIMORE COUNTY, MARYL
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 058724

DATE 9/11/98 ACCOUNT 001-6150
AMOUNT \$ 250.00 (WCR)

RECEIVED FROM: Dorsey Management Co

FOR: variance item 111

1917 E Jopa Road
drop-off - no review

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
9/14/1998	9/11/1998	12:27:09
REG 4502	CASHIER JRIC JNK DAWNEP	2
5 MISCELLANEOUS CASH RECEIPT		
Receipt #	063166	0512
CR NO.	058724	

250.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

**NOTICE OF ZONING
HEARINGS**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #99-111-A
1917 East Joppa Road
S/S Joppa Road, 425' W of
centerline Perring Parkway
9th Election District
6th Councilmanic District
Legal Owner(s):
Joppa Perring Limited
Partnership
Contract Purchaser:
Joppa Drive-Thru, Inc.

Variance: to permit a front yard setback of 40 feet in lieu of the required 70 feet and to permit three wall-mounted enterprise signs on walls where there are no exterior customer entrances.

Hearing: Tuesday, October 27, 1998 at 11:00 a.m., in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.

(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

10/163 Oct. 8 C264519

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/9/, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/8/, 1998

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

RE Case No 99-111-A

Petitioner/Developer JOPPA DRIVE-THRU, INC.

/s/ ROBERT HOFFMAN, ESQ

Date of Hearing/Closing: 10/27/98

@ 11 AM

RM-407

CCB

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention Ms. Gwendolyn Stephens

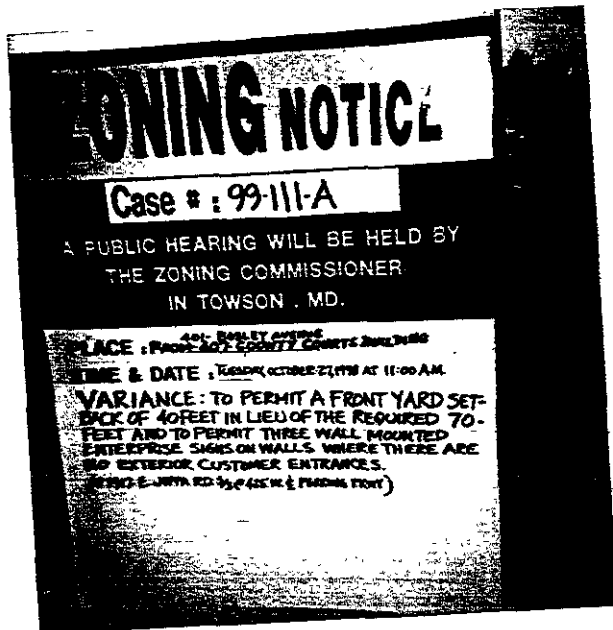
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #1917 E. JOPPA RD.

The sign(s) were posted on

10/10/98

(Month, Day, Year)



Sincerely,

Patrick M O'Keefe 10/12/98

(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366 ; CELL-410-905-8571

(Telephone Number)

99-111-A

1917 E JOPPA RD

10/27/98

10/10/98

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-111-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: VARIANCE TO PERMIT A FRONT
YARD SETBACK OF 40 FEET IN LIEU OF
THE REQUIRED 70 FEET AND TO PERMIT 3
WALL-MOUNTED ENTERPRISE SIGNS ON WALLS
WHERE THERE ARE NO EXTERIOR CUSTOMER
ENTRANCES

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: _____

Petitioner: Joppa Drive - Thru, Inc.

Location: 1917 East Joppa Road

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Barbara Ormrod

ADDRESS: 210 Allegheny Ave.

Towson, Md 21204

PHONE NUMBER: 410-494-6201

AJ:ggs

(Revised 09/24/96)

99-111-A

-16-

TO: PATUXENT PUBLISHING COMPANY
October 8, 1998 Issue - Jeffersonian

Please forward billing to:

Barbara Ormord 410-494-6201
210 Allegheny Avenue
Towson, MD 21204


NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-111-A
1917 East Joppa Road
S/S Joppa Road, 425' W of centerline Perring Parkway
9th Election District - 6th Councilmanic District
Legal Owner: Joppa Perring Limited Partnership
Contract Purchaser: Joppa Drive-Thru, Inc.

Variance to permit a front yard setback of 40 feet in lieu of the required 70 feet and to permit three wall-mounted enterprise signs on walls where there are no exterior customer entrances.

HEARING: Tuesday, October 27, 1998 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

September 28, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-111-A
1917 East Joppa Road
S/S Joppa Road, 425' W of centerline Perring Parkway
9th Election District - 6th Councilmanic District
Legal Owner: Joppa Perring Limited Partnership
Contract Purchaser: Joppa Drive-Thru, Inc.

Variance to permit a front yard setback of 40 feet in lieu of the required 70 feet and to permit three wall-mounted enterprise signs on walls where there are no exterior customer entrances.

HEARING: Tuesday, October 27, 1998 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: Robert A. Hoffman, Esquire
Joppa Perring Limited Partnership
Joppa Drive-Thru, Inc.

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY OCTOBER 12, 1998.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR VARIANCE

SE/Corner Joppa Road and Pershing Avenue
(1917 East Joppa Road
9th Election District
6th Election District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Joppa Perring Limited Partnership,
c/o GFS Realty, Owners; Joppa Drive-Thru, Inc.
Contract Lessee - Petitioners

* Case No. 99-111-A
*

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the Owners of the subject property, Joppa Perring Limited Partnership, c/o GFS Realty, and the Contract Lessee, Joppa Drive-Thru, Inc., through their attorney, Robert A. Hoffman, Esquire, seeking relief from Section 303.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 40 feet in lieu of the required 70 feet, and from Section 450.4.5(d) of the B.C.Z.R. to permit three (3) wall-mounted enterprise signs on walls where there are no exterior customer entrances. The subject property and relief sought were more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

WHEREAS, a public hearing on the matter was held on October 27, 1998, at which representatives of the Contract Lessee, who was represented by Robert A. Hoffman, Esquire, appeared and testified in support of their request. Numerous other individuals appeared in opposition to the Petitioners' request on behalf of the adjoining property owner, the Joppa Gospel Tabernacle Church, who was represented by David F. Mister, Esquire. Testimony and evidence presented at the hearing revealed that the Petitioners propose to develop a portion of the site, which is already improved with a Giant supermarket and Bill's Carpet Barn, with a Checker's Restaurant, which will include a drive-thru facility. In its negotiations with the Joppa

ORDER RECEIVED FOR FILING
Date 3/11/99
By [Signature]

Gospel Tabernacle Church, the Petitioners agreed to certain terms, conditions, and business hours, so that the operation of the restaurant would not interfere with Sunday worship services.

Pursuant to the agreement reached between the parties, I granted the requested relief, by Order dated December 2, 1998, subject to the certain terms and conditions agreed upon.

Subsequent to the issuance of said Order, the Owners of the property filed a Motion for Reconsideration on December 29, 1998, through their attorney, Jon M. Laria, Esquire. Within their Motion, the Owners of the property noted that they were not represented at the public hearing and that the hearing was requested by and for the benefit of the Contract Lessee. The Owners further noted their opposition to Restrictions Nos. 6, 7 and 8 of the Order, and requested either a re-hearing on the matter, or a reconsideration of the restrictions set forth above. Counsel for the Owners forwarded a copy of their Motion to all parties to the case.

Thereafter, by letter dated January 22, 1999, Counsel for the Owners advised this Deputy Zoning Commissioner that they were meeting with representatives of both the Checkers restaurant and the Church to discuss the revisions specified in the Motion and would submit the agreed-upon conditions for my consideration. By letter dated February 25, 1999, Counsel for Checkers advised this Deputy Zoning Commissioner that all parties had reached an agreement and recommended changes be made to Restrictions Nos. 6, 7 and 8, and the addition of a new Restriction No. 10, as set forth below.

After due consideration of the Petitioners' request, and in view of all parties being in agreement to the changes set forth in Mr. Hoffman's letter of February 25, 1999, I am persuaded to grant the Motion for Reconsideration and shall amend my Order accordingly.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 11th day of March, 1999 that Restrictions Nos. 6, 7 and 8 of the Order dated

December 2, 1998, be and the same are hereby AMENDED, and a new Restriction No. 10 added as follows :

" 6) Pershing Avenue is maintained by Baltimore County from Joppa Road, .19 miles south. The Contract Lessee shall be required to maintain the roadbed of Pershing Avenue, and the curbs and gutters thereof, from Joppa Road south to the existing access point for Joppa Gospel Tabernacle Church, (see hatched area on Petitioner's Exhibit 2, attached) in a good and workmanlike manner in the event that Baltimore County does not make necessary repairs to Pershing Avenue within ninety (90) days of the date they are notified. Neither Joppa Gospel Tabernacle Church nor the Owner shall be required to expend any of their own funds for the purpose of repairing or maintaining the roadbed of Pershing Avenue, or any of the curb and gutter located on their respective sides of Pershing Avenue."

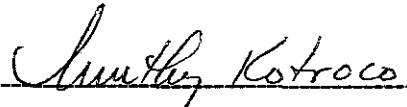
" 7) At the Owner's or the Contract Lessee's option, and at the Contract Lessee's sole cost and expense, upon the expiration or earlier termination of the lease between the Owner and the Contract Lessee (the "Termination Date"), the Contract Lessee, in a manner specified by the Owner, shall remove, raze or demolish the building and all improvements upon the Contract Lessee's leased premises (the "Premises"), and the Contract Lessee shall repair all damage to the Premises cause thereby and restore the Premises to its original condition (collectively, the "Work"). If, within one year after the Termination Date, the Owner or the Contract Lessee has not done the Work, and the Owner has not signed a lease with a replacement tenant for the Premises, then the Owner shall do the Work."

" 8) Checkers shall use all reasonable and good faith efforts to prevent the loitering of individuals on the subject property, or excessive noise from patrons, at all times during the day or evening."

"10) There shall be no outside speakers other than: (a) those necessary to operate the drive-thru service windows, and (b) speakers to allow for music at the outdoor tables, so long as that music is not audible at the lease line for the Checkers facility."

All other terms and conditions of the Order issued December 2, 1998 shall remain in full

force and effect.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Messrs. Jon M. Laria, Esq., David F. Mister, Esq., & Robert A. Hoffman, Esq.
Ms. Donna Spicer, 8719 Eddington Road, Baltimore, Md. 21234
People's Counsel; Case File



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

January 15, 1999

Jon M. Laria, Esquire
Ballard Spahr Andrews & Ingersoll, LLP
300 E. Lombard Street, 19th Floor
Baltimore, Maryland 21202-3268

RE: PETITION FOR VARIANCE
SE/Corner Joppa Road and Pershing Avenue
(1917 East Joppa Road)
9th Election district - 6th Councilmanic District
Joppa Perring L.P., c/o GFS Realty, Owners; Joppa Drive-Thru, Inc., Lessees - Petitioners
Case No. 99-111-A

Dear Mr. Laria:

This office is in receipt of your Motion for Reconsideration in the above-captioned matter. Please be advised that the appeal period has been stayed and that I am awaiting a response to your Motion from Messrs. Hoffman and Mister, the other attorneys in this case. Upon receipt of their responses, I will either make a decision on your request, or set the matter in for a continued hearing.

In the meantime, should you have any further questions on the subject, please do not hesitate to call me.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Robert A. Hoffman, Esquire, Venable, Baetjer & Howard
210 Allegheny Avenue, Towson, Md. 21204
David F. Mister, Esquire, 30 E. Padonia Road, Suite 404, Timonium, Md. 21093
Ms. Nancy E. Catron-Hruneni, Catron Real Estate, Inc.
2905 Mitchellville Road, suite 205, Bowie, Md. 20716
Ms. Donna Spicer, 8719 Eddington Road, Baltimore, Md. 21234
People's Counsel; Case File



* * * * *

IN RE: PETITION FOR VARIANCE,
SE/Corner Joppa Road and Pershing
Avenue
1917 East Joppa Road
9th Election District
6th Councilmanic District

Joppa Perring Limited Partnership,
c/o GFS Realty, Inc., Owners; Joppa
Drive-Thru, Inc., Contract Lessee –
Petitioners

*
* BEFORE THE
*
* DEPUTY ZONING COMMISSIONER
*
* OF BALTIMORE COUNTY
*
*
* Case No. 99-111-A
*
*
*
*

* * * * *

MOTION FOR RECONSIDERATION

Joppa Perring Limited Partnership (“**Joppa**”), by its attorneys and pursuant to Rule 2(K) of the Rules of Practice and Procedure Before The Zoning Commissioner/Hearing Officer of Baltimore County, hereby moves for reconsideration of the Deputy Zoning Commissioner’s grant of a Petition for Variance in the above-captioned case. In support of its Motion, Joppa respectfully represents:

1. On December 2, 1998, the Deputy Zoning Commissioner for Baltimore County granted a Petition for Variance seeking relief from Section 303.2 of the Baltimore County Zoning regulations (the “**B.C.Z.R.**”) to permit a front yard setback of 40 feet in lieu of the required 70 feet, and from Section 450.4.5(d) of the B.C.Z.R. to permit three (3) wall-mounted enterprise signs on walls where there are no exterior customer entrances, subject to the restrictions contained therein (collectively, the “**Order**”). A copy of the Order is attached hereto as Exhibit A.

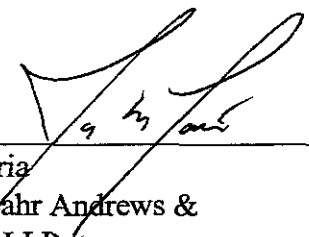
2. Joppa is the owner of the property which is the subject of the Order, but was not represented at the hearing which gave rise to the Order because the hearing was requested by, and for the benefit of, the Contract Lessee, Joppa Drive-Thru, Inc.

3. Joppa objects to restrictions numbered 6, 7, and 8 contained in the Order, and desires to have the matter re-heard before the Deputy Zoning Commissioner to amend these restrictions to the mutual satisfaction of Joppa and other interested parties.

4. Joppa hereby requests that the Deputy Zoning Commissioner reconsider his Order, giving adequate time to Joppa to contact other interested parties to agree upon mutually acceptable restrictions to be submitted to the Deputy Zoning Commissioner for consideration.

WHEREFORE, Joppa requests that its Motion for Reconsideration be granted.

Respectfully submitted,



Jon M. Laria
Ballard Spahr Andrews &
Ingersoll, LLP
300 E. Lombard Street, Suite 1900
Baltimore, MD 21202
(410) 528-5506

Attorneys for Joppa Perring Limited Partnership

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December, 1998 a copy of Joppa Perring Limited Partnership's foregoing Motion for Reconsideration was telecopied and mailed first class, postage pre-paid to:

Mr. Walter Dorsey, President
Joppa Drive-Thru, Inc.
P.O. Box 530
Leonardtown, Maryland 20650-0530

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

David F. Mister, Esquire
30 E. Padonia Road
Suite 404
Timonium, Maryland 21093

Nancy E. Catron-Hruneni
Catron Real Estate, Inc.
2905 Mitchellville Road, Suite 205
Bowie, Maryland 20716

and mailed first class, postage pre-paid to:

Ms. Donna Spicer
8719 Eddington Road
Baltimore, Maryland 21234.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

10/21/98
8
WCR

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: October 20, 1998

FROM: *fw* Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
of September 28, 1998
Item No. 99-111A
Revised Comments

The Development Plans Review Division has revised comments on the subject zoning item.

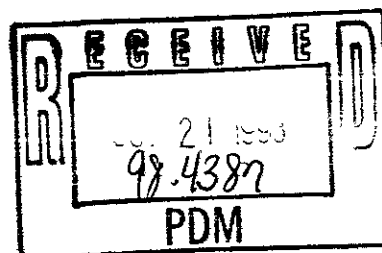
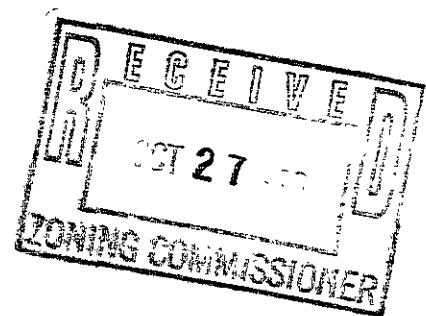
Pershing Avenue is an existing road which shall ultimately be improved as a 30-foot street cross-section on a 50-foot right-of-way.

The developer is responsible for the 6-foot widening of the existing paving with concrete curb and gutter along his frontage with Pershing Avenue.

He is also responsible for the preparation of the right-of-way plat and the dedication of the roadway widening 2 feet beyond the proposed curb and gutter location at no cost to the County.

RWB:HJO:jrb

cc: Lawrence E. Schmidt, Zoning Commissioner
File



RWB224

Scm
10/27

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: October 1, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 1917 East Joppa Road

INFORMATION:

Item Number: 111

Petitioner: Joppa Drive-Thru, Inc.

Zoning: BL and BL-AS

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

This office does not have any objections to the requested variances; however, site circulation, landscaping and noise related concerns should be addressed.

Noise

The restaurant should not be permitted to play music audible outside the building. In addition, the drive through speakers should be arranged to not face the Joppa Gospel Tabernacle.

Landscaping

A landscape plan should be submitted to the Office of Planning for review and approval prior the issuance of any permits. Landscaping should be provided along the Pershing Avenue restaurant frontage and along the Joppa Road restaurant and shopping center frontage, and this treatment should consist of street trees for canopy and shade, and shrubs to provide screening of the parking and drive-through access lane.

Circulation

Eliminate the three spaces parallel to the outer drive-through lane to provide an area for a sidewalk into the shopping center and additional area for landscaping. The circulation within the

larger parking lot should be defined with curbed islands at the ends of the parking bays with a minimum width of ten feet.

The center island entrance to shopping center should be extended 35± feet to further define the circulation pattern and stacking at the exit.

The proposed island across from the Checkers' dumpsters creates a slight conflict with the trash trucks and this matter should be addressed.

Section Chief:

Jeffrey W. Long

AFK:JL:kma

10/27/98

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: October 20, 1998

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SIGNED: ROBERT W. BOWLING

SUBJECT: Zoning Advisory Committee Meeting
of September 28, 1998
Item No. 99-111A
Revised Comments

The Development Plans Review Division has revised comments on the subject zoning item.

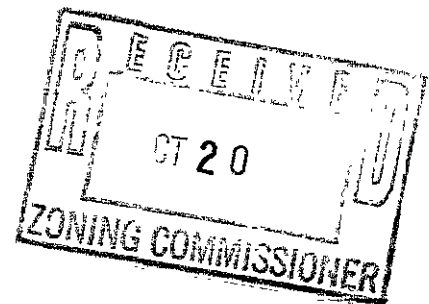
Pershing Avenue is an existing road which shall ultimately be improved as a 30-foot street cross-section on a 50-foot right-of-way.

The developer is responsible for the 6-foot widening of the existing paving with concrete curb and gutter along his frontage with Pershing Avenue.

He is also responsible for the preparation of the right-of-way plat and the dedication of the roadway widening 2 feet beyond the proposed curb and gutter location at no cost to the County.

RWB:HJO:jrb

cc: Lawrence E. Schmidt, Zoning Commissioner
File



RWB224



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
(410)887-4880

September 24, 1998

TO: Arnold Jablon, Director
Permits and Development Management
MAIL STOP-1105

FROM: LT. ROBERT P. SAUERWALD
FIRE MARSHAL OFFICE
MAIL STOP - 1102F, PHONE 887-4881

RE: Property Owner: JOPPA PERRING LTD. PARTNERSHIP

Location: S/S JOPPA RD., 425' W OF CENTERLINE PERRING PKWY.
(1917 E. JOPPA RD.)

Item No.: ~~111~~ III Zoning Agenda: VARIANCE

Gentlemen:

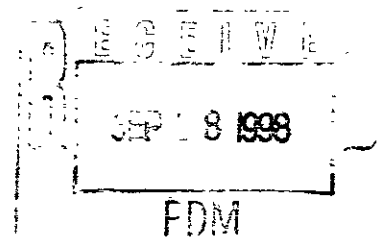
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

CC:



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on Recycled Paper



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: POM

FROM: R. Bruce Seeley. *RBS/sp*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: 9/21/99

DATE: 9/23/98

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

101	110
102	(111)
103	112
107	
109	

RBS:sp

BRUCE2/DEPRM/TXTS8P

RE: PETITION FOR VARIANCE
1917 E. Joppa Road, S/S Joppa Rd, 425' W
of c/I Perring Pkwy., 9th Election District,
6th Councilmanic

Legal Owners: Joppa Perring L.P.
Contract Purchaser: Joppa Drive-Thru, Inc.

Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-111-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 1998, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

10/27
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

October 29, 1998

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Hoffman:

RE: Drop-Off Petition Review (Item #111), 1917 East Joppa Road, 9th Election District

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Sullivan, Jr.", written in a cursive style.

John J. Sullivan, Jr.
Planner II, Zoning Review

JJS:rye

Enclosure (receipt)

c: Zoning Commissioner

Come visit the County's Website at www.co.ba.md.us



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210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147
www.venable.com

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Writer's Direct Number:
(410) 494-6206

September 9, 1998

HAND-DELIVERED

Mr. Carl Richards
Department of Permits and
Development Management
County Courts Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance
Petitioner/Property Owner: Joppa Perring Limited Partnership
Contract Purchaser/Lessee: Joppa Drive-Thru, Inc.
Location: 1917 East Joppa Road

Dear Mr. Richards:

I am drop-filing the enclosed Petition for Variance for the above-referenced property. This request has been previously reviewed by John Sullivan of your office. This property is not in violation of any zoning laws. With this letter, I have enclosed the following documents:

1. Petition for Variance (3);
2. Zoning Description (3);
3. Site Plan (12);
4. 200' Scale Zoning Map (1);
5. Newspaper Advertising Form; (1) and
6. Check in the amount of \$250.00

If you have any questions or concerns regarding this filing, please give me a call.

Very truly yours,

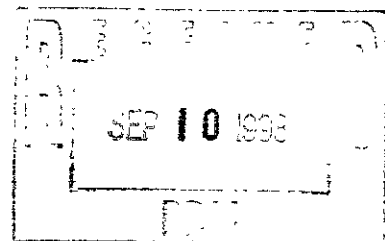

Patricia A. Malone

#111
9/11/98

PAM/sm
Enclosures

TO1DOCS1/PAM01/0071086.01

99-111-A





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

September 14, 1998

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Hoffman:

RE: Drop-Off Petition, Item #111, 1917 East Joppa Road

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. Once a detailed review has been completed by the staff, those comments will be forwarded to you (hopefully before the hearing).

As Baltimore County is no longer responsible for posting properties, I have enclosed the proper form pertaining to this. The sign must contain the wording indicated on the "Zoning Notice" form and the certificate of posting must be completed by the poster and returned to this office.

If you have any questions regarding the sign posting, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "WCR / scj".

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

Enclosures

Come visit the County's Website at www.co.ba.md.us



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99-111-A



February 25, 1999

Mr. Timothy M. Kotroco, Deputy Zoning
Commissioner for Baltimore County
Old Courthouse, Suite 113
400 Washington Avenue
Towson, Maryland 21204

RE: Case Number: 99-111-A
Joppa Drive Thru, Inc., Petitioner

Dear Mr. Kotroco:

Following a meeting on January 19th, 1999, with representatives from Joppa Perring Limited Partnership, the Joppa Gospel Tabernacle Church and Joppa Drive Thru, Inc., we are pleased to recommend the following changes to your Order, dated December 2nd, 1998, as follows:

1. Strike Paragraph No. 6 and replace it with the following:

"Pershing Avenue is a Baltimore County maintained roadway from Joppa Road .19 miles south. However, the Contract Lessee in this case shall be required to maintain the road bed of Pershing Avenue and the curbs and gutters thereof, from Joppa Road south to the existing access point for Joppa Gospel Tabernacle Church, (see hatched area on Petitioner's Exhibit No. 2) in a good and workmanlike manner in the event that Baltimore County does not make necessary repairs to Pershing Avenue within ninety (90) days of the date they are notified. Neither the Joppa Gospel Tabernacle Church nor the Owner shall be required to expend any of their own funds for the purpose of repairing or maintaining the roadbed of Pershing Avenue, or any of the curb and gutter located on their respective sides of Pershing Avenue."

2. Strike Paragraph No. 7 and replace it with the following:

"At the Owner's or the Contract Lessee's option, and at the Contract Lessee's sole cost and expense, upon the expiration or earlier termination of the lease between the Owner and the Contract Lessee (the "Termination Date"), the Contract Lessee, in a manner specified by the Owner, shall remove, raze or demolish the building and all improvements upon the Contract Lessee's

February 25, 1999

Page 2

leased premises (the "Premises"), and the Contract Lessee shall repair all damage to the Premises caused thereby and restore the Premises to its original condition (collectively, the "Work"). If, within one year after the Termination Date, the Owner or the Contract Lessee has not done the Work, and the Owner has not signed a lease with a replacement tenant for the Premises, then the Owner shall do the Work."

3. Strike Paragraph No. 8 and replace it with the following:

"Checkers shall use all reasonable and good faith efforts to prevent the loitering of individuals on the subject property, or excessive noise from patrons, at all times during the day or evening."

4. Strike Paragraph No. 10 and replace it with the following:

"There shall be no outside speaker other than: (i) those necessary to operate the drive through service windows, and (ii) speakers to allow for music at the outdoor tables, so long as that music is not audible at the lease line for the Checkers facility."

I have reviewed this correspondence with David Mister and Jon Laria and they concur in this request.

Yours truly,



Robert A. Hoffman

RAH/sm

cc: Jon M. Laria, Esquire
David F. Mister, Esquire
Donna Spicer

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

300 EAST LOMBARD STREET, 19TH FLOOR

BALTIMORE, MARYLAND 21202-3268

410-528-5600

FAX: 410-528-5650

LAWYERS@BALLARDSPAHR.COM

PHILADELPHIA, PA

CAMDEN, NJ

DENVER, CO

SALT LAKE CITY, UT

WASHINGTON, DC

JON M. LARIA

DIRECT DIAL: 410-528-5506

LARIA@BALLARDSPAHR.COM

January 22, 1999

JAN 25

VIA TELECOPY AND U.S. MAIL

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

**Re: Petition for Variance
SE/Corner Joppa Road and Pershing Avenue (1917 East Joppa Road)
9th Election District - 6th Councilmanic District
Joppa Perring Limited Partnership, c/o GFS Realty (Owners);
Joppa Drive-Thru, Inc. (Contract Lessee) - Petitioners
Case No. 99-111-A**

Dear Mr. Kotroco:

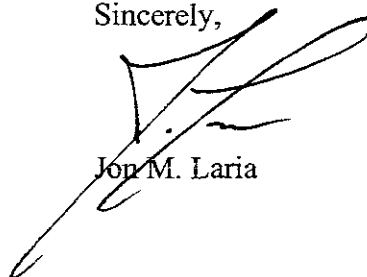
Thank you for your January 15, 1999 letter accepting my filing of the Motion for Reconsideration for the above-captioned matter (the "Motion"). I understand from our telephone conversation that you will allow the parties the requisite time to reach an agreement before you rule on the Motion.

To that end, my client is meeting with Checkers' representatives today, and will meet with Church representatives soon to discuss and agree upon revisions to the conditions specified in the Motion. We will then submit the agreed-upon conditions to you for your consideration.

Mr. Timothy M. Kotroco
January 22, 1999
Page 2

We are confident we can reach an agreement that accomplishes everyone's goals. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Laria". The signature is stylized with a large, sweeping loop at the end.

Jon M. Laria

JML:car

cc: Mr. Steve Oseroff
Mr. Howard Gaskill
Christine McCarey, Esquire
Parties Listed on Certificate of Service

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

FRED THOMPSON

4298 LAKE AVE 21212

BARRY LOESCHER

1842 Aberdeen Cir Crofton MD 21114

Nancy Catron Hunsen

2905 Mitchellville Rd #205 Bowie MD 20716

Rob Hoffner

210 Allegheny Ave 21204



BARRY W. LOESCHER
Director of Operations

DORSEY MANAGEMENT CO., INC.

P.O. Box 1809
California, MD 20619-1809
Office Ph. 301/870-1132
Pager 301/406-7590

DAVID F. MISTER
ATTORNEY AT LAW
SUITE 404 PADONIA CENTRE
30 E. PADONIA ROAD
TIMONIUM, MD 21093

MISTER, LOKER & BARTLETT

(410) 561-3000
FAX (410) 560-0588



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PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

* DONNA SPICER
Olivia Reed
Richard Howard
Pastor James Guffey
Robert L. FAYNE

8719 EDDINGTON Rd Bldg 21234
1911 E. Joppa Rd
1911 E Joppa Rd 21234
1911 E. Joppa Rd 21234
1014 Circle Dr 21784

A

* * * * *

Appearing at the hearing on behalf of the Petition were Barry Loesch, a representative of Checkers Restaurant, the proposed proprietor of the subject property, Fred Thompson, Nancy Catron-Hrunenel, and Robert A. Hoffman, Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were several representatives of the Joppa Gospel Tabernacle Church, which is located on the adjacent property, all of whom signed the Protestants' Sign-In Sheet. The Protestants were represented by David F. Mister, Esquire.

Appearing as an interested party was Ms. Donna Spicer, a representative of the Loch Raven Business Association.

Testimony and evidence offered revealed that the subject property is located on the southwest corner of Joppa Road and Pershing Avenue not far from the intersection of Joppa Road and Perring Parkway in Parkville. The property consists of a gross area of 4.47 acres, more or less, split zoned B.L. and B.L.-A.S. and is improved with a Giant Supermarket and Bill's Carpet Barn, which have existed on the property for many years. The remainder of the site is a parking lot. The Petitioners have contracted to lease a portion of the property to Joppa Drive-Thru, Inc., who propose to develop the northwest corner of the site with a Checker's Restaurant. The proposed restaurant will be a fast-food, carry-out only, drive-thru facility, consisting of a one-story building containing the cooking facilities and two drive-thru aisles. The drive-thru lanes will be located on either side of the proposed building with access from both Pershing Avenue and Joppa Road. There will be a walk-up window where pedestrians can order food and an outdoor seating area for patrons. There will be no indoor seating.

On behalf of the Petitioners, Mr. Hoffman testified that they have been negotiating with the Joppa Gospel Tabernacle Church and its attorney, Mr. Mister, as to certain terms and conditions which shall be imposed upon Checkers in the operation of their carry-out restaurant. Those conditions shall be incorporated as restrictions at the end of this Order.

In addition, Ms. Donna Spicer, who appeared on behalf of the Loch Raven Business Association, raised a concern which shall be addressed by way of a restriction incorporated at the end of this Order. As to the restaurant use, testimony revealed that Checkers is a fast-food carry-out restaurant, which has opened locations throughout Baltimore County as well as other areas in

the State of Maryland. While their menu offers a variety of lunch and dinner options, breakfast is not served. Therefore, the restaurant does not open until 10:00 AM and closes at approximately 11:00 PM. These hours are fairly consistent for Sunday to Thursday operations; however, on Fridays and Saturdays, the restaurant usually stays open later, given the fact that the weekend-crowd tends to patronize these fast food restaurants until the early hours of the morning. In its negotiations with the adjacent property owner, the Petitioners agreed to certain business hours so that the operation of the subject restaurant does not interfere with Sunday worship services at the Joppa Gospel Tabernacle Church. As to the variance relief sought, testimony indicated that the relief requested is necessary in order to develop the property as proposed and provide the necessary reader boards for ordering purposes.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals. Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property

and that strict compliance with the zoning regulations would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R. However, certain terms and restrictions shall be imposed at the end of this Order to incorporate the agreements reached between the Petitioners and adjacent property owners.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

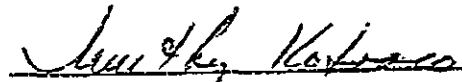
THEREFORE, IT IS ORDERED by the Deputy zoning Commissioner for Baltimore County this 2nd day of December, 1998 that the Petition for Variance seeking relief from Section 303.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 40 feet in lieu of the required 70 feet, and from Section 450.4.5(d) of the B.C.Z.R. to permit three (3) wall-mounted enterprise signs on walls where there are no exterior customer entrances, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The hours of operation shall be from 10:00 AM to the closing time deemed appropriate by the operator of this restaurant. However, on Sundays, the restaurant shall not open before 12:00 PM. Employees may be permitted to access the building for purposes of preparing the restaurant for opening at 12:00 PM; however, there shall be no customer service prior to 12:00 PM on any given Sunday.
- 3) All deliveries to Checkers shall be made between the hours of 12:00 AM and 7:00 AM. In addition, all trash and debris removal shall be accomplished during those hours. Mr. Loescher indicated that these are standard hours for deliveries and trash removal for Checkers.
- 4) Prior to the issuance of any building permits, the Petitioners shall submit a

landscape plan to the Office of Planning and Mr. Avery Harden, Landscape Architect for Baltimore County. Said plan shall provide for landscaping along the entire frontage of Joppa Road, not only along that area to be leased by Checkers, but the entire frontage of the property owned by Joppa Perring Limited Partnership, c/o GFS Realty. This area of Joppa Road is in desperate need of landscaping, thus, the entire length of the Petitioner's property along Joppa Road shall be landscaped. In addition, the Petitioner shall provide landscaping as deemed appropriate by the Office of Planning and Mr. Harden on and around the entire area to be leased by Checkers. All landscaping shall be installed as soon as weather permits.

- 5) The Petitioner shall submit to the Office of Planning for review and approval a lighting and sign package for the subject site. As agreed to at the hearing, the sign package shall provide for two (2) 30 sq.ft. signs for Checkers, wall-mounted on the subject building, and one (1) 20 sq.ft. Checkers wall-mounted sign facing the Joppa Gospel Tabernacle Church.
- 6) Both the Owners of the subject property and the Contract Lessee shall be required to make all necessary improvements to Pershing Avenue as is necessary to improve the site, both along that portion of their property which fronts on Pershing Avenue and the one-half of the road bed actually owned by the Joppa Gospel Tabernacle Church. In addition, both the Owner and the Contract Lessee shall be required to maintain Pershing Avenue in the future, from the intersection of Joppa Road and Pershing Avenue back to the property line shown on the site plan as being owned by Robert G. Davidson, Jr. The Joppa Gospel Tabernacle Church shall not be required to expend any of their own funds for the purpose of repairing or maintaining the roadbed of Pershing Avenue, or any of the curb and gutter located on their side of Pershing Avenue. The damage caused to Pershing Avenue and its curb and gutters are as a result of the many 18-wheel tractor trailer delivery trucks that come into this site to service Bill's Carpet Barn and the Giant Food Store, and now, the Checkers' restaurant. The surface of Pershing Avenue and the curbs and gutters shall be repaired and maintained by those parties responsible for this damage, i.e., the Joppa Perring Limited Partnership, the landlord of the site, and the various users of the subject property, and not the Joppa Gospel Tabernacle Church.
- 7) In the event that Checkers ceases to operate at this location and a new business is not able to utilize the same building footprint for a new use on the property, then after the expiration of one year following the abandonment of the restaurant building, the property owners, Joppa Perring Limited Partnership c/o GFS Realty, shall be required to raze the obsolete building, remove all parking islands and curb and gutter installed for this use, and restore this corner of their property to its original condition. This will prevent an abandoned building from being left to deteriorate on the subject property in the event a new user cannot be found.

- 8) In the event that a problem arises with the loitering of individuals on the subject property, then the Petitioners shall be required to hire private security guards to maintain the area.
- 9) The Owners of the subject property and Checkers shall be required to maintain the entire property free and clear of all trash and debris, even if said trash and debris are from an adjacent site.
- 10) There shall be no outside speakers other than those necessary to operate the drive-thru service windows, and no outdoor music played on the subject property.



TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs



JOPPA GOSPEL
TABERNACLE
CT. NO. 09-10-452020
DEED 4996/656

ING CHURCH

ROAD WIDENING
(30' HALF SECTION)

PROPOSED CONSTRUCTION

SEE SHEETS C-2, C-3, C-4
AND L-1 FOR DETAILED
PLANS

EXIST ENTRANCE TO
BE SLIGHTLY RELOCATED
(22' WIDE)

LIGHT POLE TO BE
RELOCATED (TYP. OF 3)

PERSHING AVENUE

EXIST SIGN #1

OUTDOOR SEATING
AREA 720 SF

PROPOSED
PARKING

PROP. WATER

EX. 12" WATER

EX. GAS

EX. 15" STORM

PEDESTRIAN LIGHT
24 CONC. BASE
ELEC. HARDWARE

TRAFFIC LIGHT
12' CONC. BASE
ELEC. HARDWARE

BITUMINOUS
PAVING

EXISTING PAV

17 SPACES

17 SPACES

17 SPACES

17 SPACES

240'±

RET. # 2

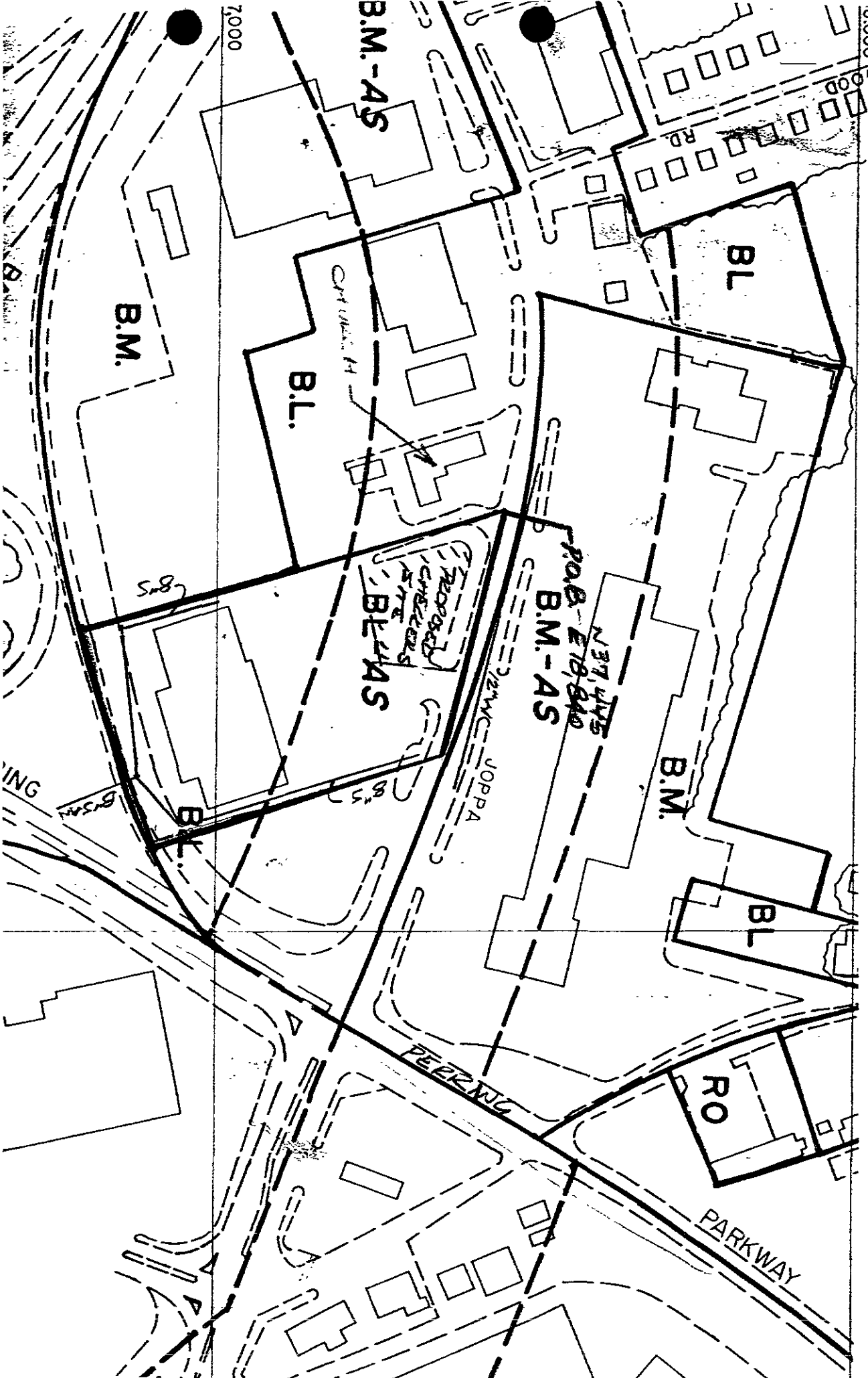
MAGNETIC

BL
BM

N 08° 30' W
629.81'

S 68° 39' E
115.30'

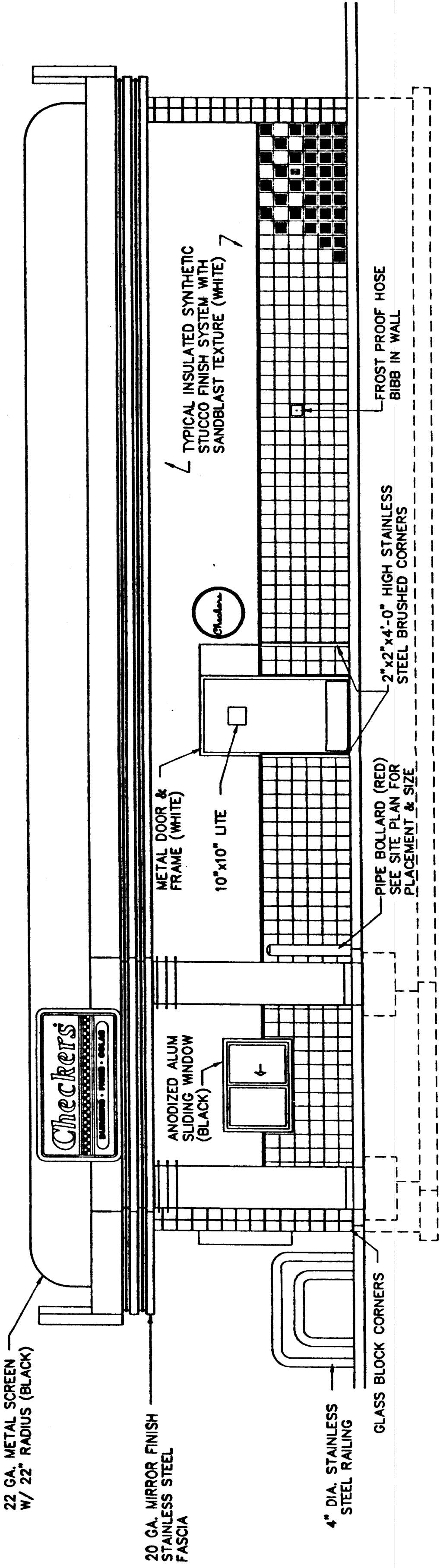
S 70°



ZONING MAP 10-D
CHECKERS SITE

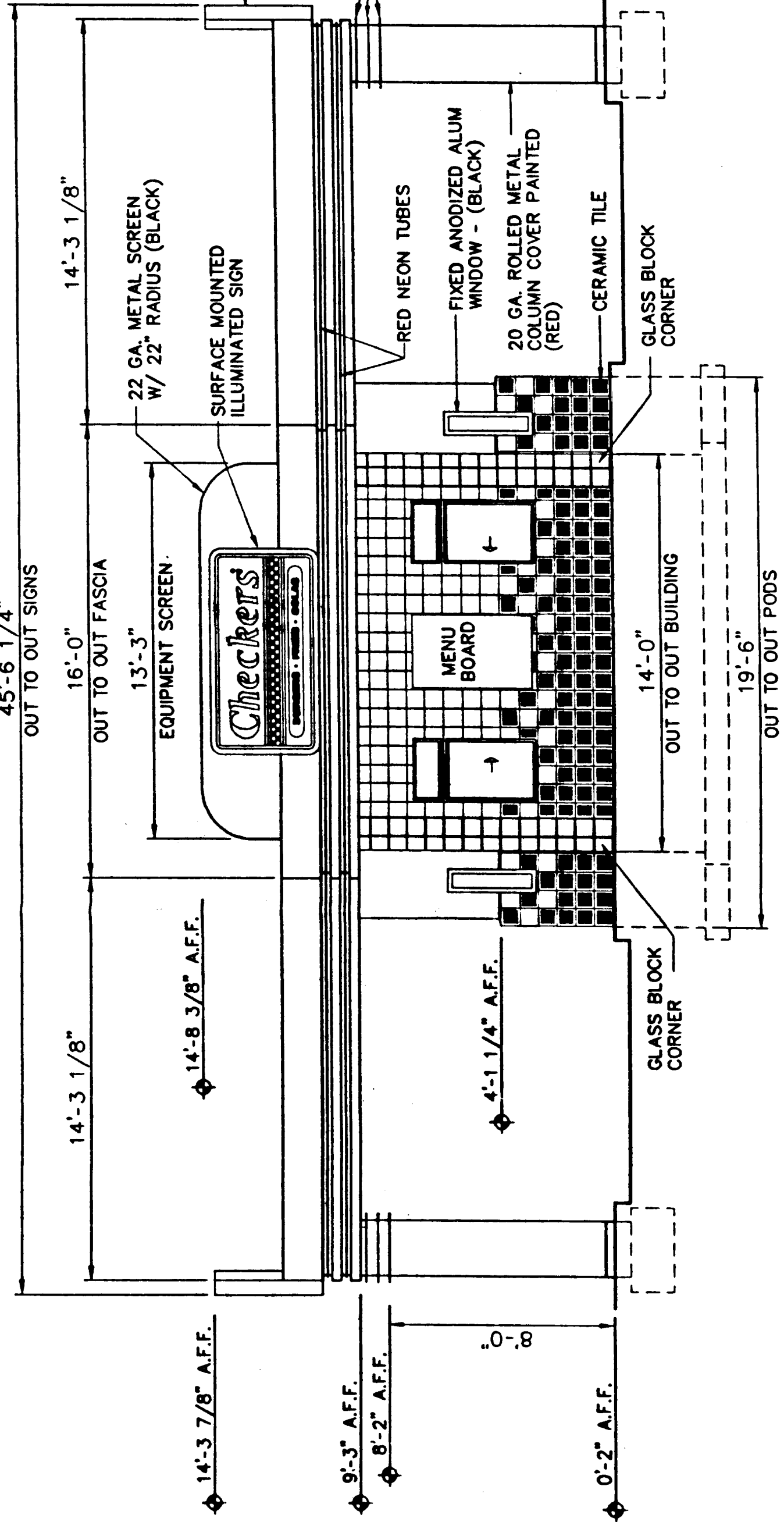
SCALE 1" = 200'
1917 E. JOPPA ROAD

99-111-A



RIGHT SIDE ELEVATION

PAINT SPECIFICATIONS	
WHITE	- PLEKO TOP COAT #207 BRIGHT WHITE
BLACK	- WESTERN HI-GLO #W589 COACH BLACK
RED	- DUPONT RED #R554



FRONT ELEVATION

1/4" = 1'-0"

60'-0 1/4" OUT TO OUT SIGNS
59'-0 1/4" OUT TO OUT FASCIA

22 GA. METAL SCREEN W/ 22" RADIUS (BLACK)

Checkers

NEON SIGN IN WINDOW WITH FIXED GLAZING (BLACK)

CO₂ VALVE BOX CENTER IN BLACK CERAMIC TILE AND PAINT BLACK

PIPE BOLLARD (RED) SEE SITE PLAN FOR PLACEMENT & SIZE

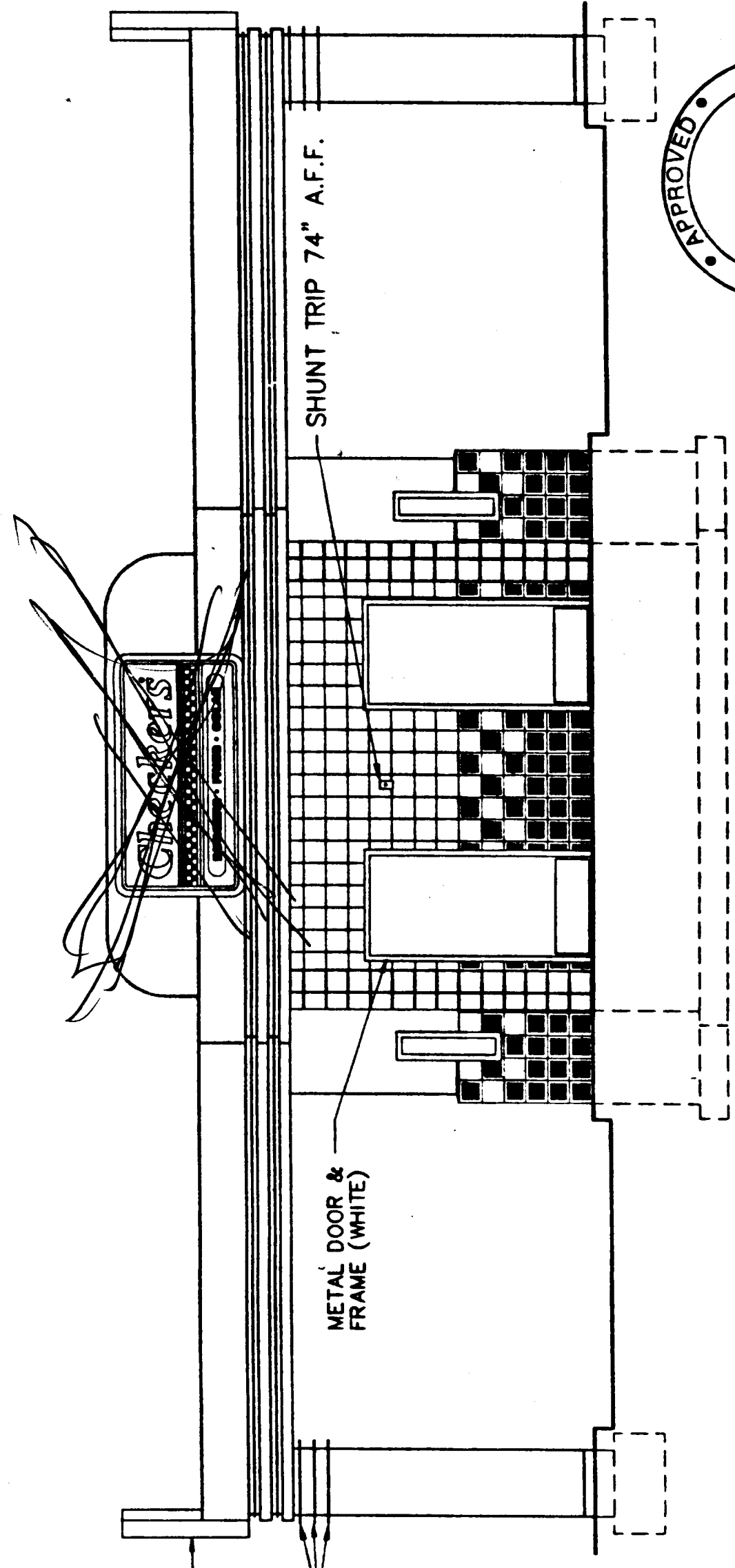
BLACK & WHITE TILE PATTERN, TYPICAL OF ALL EXTERIOR TILE

GLASS BLOCK CORNER

54'-0 1/4"

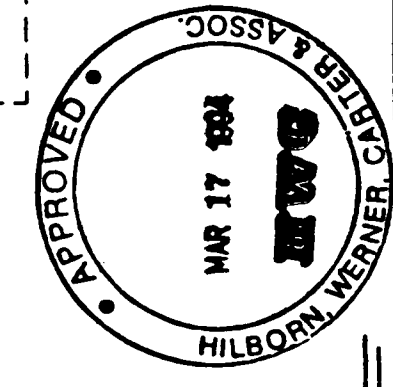
LEFT SIDE ELEVATION

1/4" = 1'-0"



REAR ELEVATION

1/4" = 1'-0"



1/4" = 1'-0"

Checkers CHECKERS DRIVE-IN RESTAURANTS INC.		CHAMPION MODULAR RESTAURANT CO. CHAMPION MODULAR RESTAURANTS FLORENCE, ALA 36633 PHONE: (404) 871-1000 FAX: (404) 871-1000	
FILE NO.		FINAL JOB NO.	
EXTERIOR ELEVATIONS			
CERTIFICATION / APPROVAL DRAWING			
MODULAR RESTAURANT - MODEL 785			
DWG NO. CS785CA1		SHT 1/1	
SCALE 1/4"=1'-0"		DRAWN BY: R.W./J.B.	
DATE: 3/10/84		CHECKED BY: B.J./J.P.	
REVISIONS		DATE	
DWN		CKD	

ALL SEAL, SIGNATURE, AND NOTATION ARE REQUIRED ON THIS SHEET. THE SEAL OF THE PROFESSIONAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL ARCHITECT IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL LANDSCAPE ARCHITECT IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL CIVIL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL MECHANICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL ELECTRICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL CHEMICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL INDUSTRIAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AERONAUTICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AGRICULTURAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL METALLURGICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL MINING ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL PETROLEUM ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL MARINE ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AEROSPACE ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AERONAUTICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AGRICULTURAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL METALLURGICAL ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL MINING ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL PETROLEUM ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL MARINE ENGINEER IS REQUIRED ON ALL SHEETS. THE SEAL OF THE PROFESSIONAL AEROSPACE ENGINEER IS REQUIRED ON ALL SHEETS.

VICINITY MAP SCALE: 1" = 1,000'

ELECTION DISTRICT 9 COUNCILMANIC DISTRICT 6

OWNER: JOPPA PERRING LIMITED PARTNERSHIP/
GIANT OF MARYLAND, INC.
60 GIANT FOOD
P.O. BOX 1804 DEPT. 871
WASHINGTON, D.C. 20013-1804

TAX ACCOUNT NOS.: 09-01-54220 & 09-07-291880
DEED REFERENCE: 6745038 & 4688915
PLAT REFERENCE: 6/168

DEVELOPER: DORSEY MANAGEMENT INC.
AREA OF SITE: 4.09 ACRES (178,160 SF) (NET)
4.47 ACRES (194,540 SF) (GROSS)

EXISTING USE: GROCERY STORE & CARPET STORE
PROPOSED USE: FAST FOOD RESTAURANT PLUS EXISTING USES

ZONING: BL & BL-AS (ZONING MAP N.E. 10-D)
DRG NO. 03238J (USPC PLAN REFINEMENT REQUIRED), DATED APRIL 7, 1998

PARKING:
REQUIRED: 29,880 SF @ 51,000 = 148.4
GIANT CARPET 11,875 @ 2,511,000 = 23.7
CHECKERS 785 @ 141,000 = 11.0
INDOOR 720 @ 141,000 = 10.1
OUTDOOR TOTAL REQUIRED = 193.2 SPACES

PROVIDED 202 SPACES

STACKING SPACES:
REQUIRED: 14
PROVIDED: 17

F.A.R.:
PERMITTED: 3.0
PROPOSED: < 1.0

BUILDING HEIGHT:
PERMITTED: 40'
PROPOSED: 22' (EXISTING)

SETBACKS:
FRONT PERMITTED 10' PROPOSED 40'
SIDE PERMITTED 0' PROPOSED 25'(EX) 35'(EX)
REAR PERMITTED 0' PROPOSED 35'(EX)

LAST COMMERCIAL PERMIT ON SITE: NO. 599-64 (BUILDING PERMIT FOR GIANT)

THERE ARE NO STREAMS, WETLANDS, STORMWATER MANAGEMENT SYSTEMS OR FLOODPLAINS ON THE SITE.

ZONING HISTORY
CASE NO. 5982-RV PETITION FOR RECLASSIFICATION ORDER. IT IS ORDERED THIS 28TH DAY OF JUNE, 1983 BY THE COMMISSIONER OF BALTIMORE COUNTY, ORDERED THAT THE HEREIN DESCRIBED PROPERTY OR AREA SHOULD BE AND THE SAME IS HEREBY RECLASSIFIED FROM ZONING DISTRICT 10-D TO ZONING DISTRICT 10-D-1. THE RECLASSIFICATION IS SUBJECT TO THE APPROVAL OF THE SITE PLAN BY THE STATE ROADS COMMISSION, BUREAU OF PUBLIC SERVICES AND THE OFFICE OF PLANNING AND ZONING.

CASE NO. 08-97-X SPECIAL EXCEPTION FOR A FILLING STATION APPROVED ON NOV. 18, 1985. DECISION WAS APPEALED WHEN THE APPLICANT WITHDREW REQUEST. BY ORDER DATED FEB. 9, 1987, COUNTY BOARD OF APPEALS ORDERED THE SPECIAL EXCEPTION FOR THE PETITIONER, FOR, BE AND THE SAME IS HEREBY DENIED.

ZONING REQUESTS:
A FRONT YARD SETBACK VARIANCE FROM 70' AS REQUIRED BY THE AVERAGE OF THE SETBACKS OF EXISTING BUILDINGS ON THE ADJACENT PROPERTIES TO A 40' SETBACK, SECTION 303.2 (BCZ) AND A VARIANCE FROM SECTION 450.4.3(6) TO PERMIT 3 WALL MOUNTED ENTERPRISE SIGNS WHERE A BUILDING CONTAINS NO EXTERIOR CUSTOMER ENTRANCE.

EXIST SIGN #1
DOUBLE SIDED, ILLUMINATED SIGN
TOTAL AREA = 200 SF ±

EXIST SIGN #2
EXISTING GIANT SIGN IS DOUBLE SIDED, ILLUMINATED, & AREA = 200 SF ±
PROPOSED CHECKERS SIGN IS DOUBLE SIDED, ILLUMINATED & AREA = 90 SF ±

PROPOSED BUILDING SIGNS
SINGLE SIDED, WALL MOUNTED
3 SIGNS AT 30 SF EACH
(90 SF TOTAL)

GIANT
FOOD - DRUGS
SHOPPING CENTER
CHECKERS

BILLS CARPET FAIR
FLOOR COVERING SPECIALISTS

Checkers
BURGERS • FRIES • COLAS

EXISTING CHURCH
JOPPA GOSPEL TABERNACLE
TAX ACCT. NO. 09-10-452020
DEED 4996/656

PROPOSED CONSTRUCTION
EXIST. ENTRANCE TO BE SLIGHTLY RELOCATED (22' WIDE)
LIGHT POLE TO BE RELOCATED (TYP. OF 3)

EXIST. FAST FOOD RESTAURANT
B.K. REALTY COMPANY
TAX ACCT. NO. 09-19-611140
DEED 6041/462

EXIST. GIANT SUPER MARKET
(28,000 SQ. FT.)
(28,000 SQ. FT.)
ONE-STORY BUILDING WITH HEIGHT 21'6"

EXIST. LOADING DOCKS
EXIST. LOADING DOCKS

EXIST. STAIR
EXIST. STAIR

EXIST. CARPET
BILLS CARPET
(11,875 SQ. FT.)
ONE-STORY BUILDING WITH HEIGHT 21'6"

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